

## **Topic: Communications**

**1. Question:** Please clarify if communications systems provided under the DICCE contract must be interoperable with those of US Government agencies such as DHS/DNDO. To what extent will communication-related standards being developed for DHS/DNDO apply to the DICCE work (e.g. ANSI Standard N42.42-V14, Data Format Standard for Radiation Detectors for Homeland Security)?

**Answer:** Communications systems may be required to be operationally compatible with systems already in place in some ports and countries. This will be determined on a case-by-case basis. In terms of DHS, occupancy and alarm data provided by SLD-installed port and site systems may, for some sites, at some future time, be electronically transmitted to DHS.

**2. Question:** The draft SOW indicates the DICCE Contractor shall provide communications software and hardware to support the CONOPS, and Section 4.3.1 indicates the Contractor shall assist in non-satellite communications systems. A question fielded during the Industry Day conference asked about the DICCE contractor's role in providing software for the communications system. NNSA responded that a separate contractor is on board to develop software for the communications system. Please describe the communications contractor's scope of work, and clarify the intra-site communications expected from the DICCE contractor. Will the system architecture, graphical interface and alarm station display software be GFP?

**Answer:** The existing communications contractor has developed systems that relay the data from the portal monitor to computer workstations at the border crossing or port. SLD Core program is developing a communications system that links individual border crossings with regional or national centers within a host country. In order to achieve consistency and enhance sustainability of systems, the program expects to make the existing software available to the DICCE contractor after contract award. However, SLD is actively engaged in improving processes and products and will consider commercial products and approaches to relaying and archiving alarm data.

**3. Question:** We understand the radiation portal monitors will be provided as GFP. Will any other hardware or software be provided as GFP or will the DICCE contractor be directed to use certain hardware or software packages? If software is directed, what information about the software will be provided to the DICCE contractor prior to proposal development?

**Answer:** See answer to Question 2 above.

**4. Question:** Will the SI provide the VPN (per SOW 4.3) for software maintenance and patching?

**Answer:** VPN will be provided either by the DICCE contractor or a long-term maintenance contractor.

**5. Question:** Is it expected that the software demonstration testing identified in Section 4.7.2 of the Draft DICCE SOW will involve simulation only or will it be done in conjunction with prototype/demonstration hardware?

**Answer:** Generally we would expect demonstrations to be done on demonstration hardware, although there may be instances where simulations will be required.

**6. Question:** Could you tell me what software systems are going to be used for this integration activity or will the DICCE contractor be required to develop that software interface? Will that be provided as GFP?

**Answer:** See answer to Question 2 above.

### **Topic: Contracting**

**7. Question:** Is NNSA receptive to white papers and/or unsolicited proposals?

**Answer:** Although unsolicited proposals or white papers are not being requested through DICCE, unsolicited proposals may be submitted to the Department of Energy Unsolicited Proposal Coordinator designated in Subpart 915.6 of the Department of Energy Acquisition Regulation.

**8. Question:** What are the prime elements that determine the pace of the procurement?

**Answer:** At this point the government is in the early stages of the acquisition. Development and finalization of the statement of work, evaluation criteria, proposal preparation instructions and the acquisition strategy are the pacing items for the procurement.

**9. Question:** What is the current acquisition schedule for the DICCE procurement?

**Answer:** Solicitation issuance is planned for late in October, 2006, with award by July 2007.

**10. Question:** Reference paragraph 4.5.1.3.4: Will reciprocal non-disclosure agreements be required by SLD 3rd party contractors and DOE National Laboratories personnel? In many cases, these 3rd party contractors and DOE National Laboratory personnel are competitors on other programs in one form or another.

**Answer:** Paragraph 4.5.1.3.4 contemplates third-party contractor access to the DICCE contractor's proposal information, which would normally require the third-party contractor to enter into a non-disclosure agreement with the DICCE contractor to protect the proposal information.

**11. Question:** There is a formal acquisition plan for this project/procurement; while it is an internal document to NNSA, it gives SBs and others great insight into metrics, criteria, and issues related to the project; can we see a version of it?

**Answer:** A formal acquisition plan will not be made publicly available, however a draft RFP will be released that will provide pertinent information for this acquisition.

**12. Question:** When will a small business set-aside determination be made by the government? As a large corporation, the answer to this question is extremely important as it drives the level of corporate commitment to working pre-RFP planning. The sooner this question can be answered, the better.

**Answer:** The NNSA expects to complete its market research soon, and will make a determination regarding small business set-aside.

**13. Question:** Regarding the VAT exemption processes, are you looking at the DICCE contractor to provide that and manage that support, or is the onus being put on the host government? Who holds the money on the reimbursement? Does the contractor or does DOE?

**Answer:** We try to manage that through the agreement process. It is not the DICCE contractor's responsibility to get VAT exemption. We get the commitment in our agreements.

Getting the exemptions on paper and then implementing them is another thing, and the DICCE contractor could well be actively engaged in helping NNSA to get those mechanisms down on paper or process them. For example, sometimes the mechanism is a reimbursement by the government through the DICCE contractor. So the DICCE contractor may be involved in that process.

It depends on the country as to who holds the money from the reimbursement. We have worked it back through the contractor because we may not otherwise get it back into the program. The reimbursement can go back to the contract.

**14. Question:** What is status of VAT (and other taxes) exemption for SLD countries? What is the expectation for “VAT” exemption going forward, and what happens if not granted?

**Answer:** VAT is negotiated on a country-by-country basis. SLD contractors are not expected to pay VAT and specific guidance will be provided as it may become necessary. If there are difficulties obtaining a VAT exemption, the determination will be made by the program as to whether or not to move forward and work for a reimbursement at a later date.

### **Topic: Foreign Firms**

**15. Question:** Can a US subsidiary of a European firm be a named subcontractor on a bidding team (led by a domestic firm)?

**Answer:** A response to this question is being developed.

**16. Question:** We have heard that the prime is expected to be a US-owned company. There are some companies that are US Subsidiaries. If we were to form an LLC, can that LLC contain non-US companies?

**Answer:** A response to this question is being developed.

**17. Question:** Does NNSA intend to use local (i.e., foreign) vendors for detection equipment? If not, will NNSA provide export control approval assistance?

**Answer:** Much of the detection equipment will be obtained from US suppliers; however, there may be cases where the program will buy foreign-made equipment. All purchases of detection equipment will be directed by NNSA. Such equipment will be off-the-shelf and will have been tested and approved by the NNSA outside the scope of the DICCE contract. The DICCE contractor will not be required to test equipment performance prior to procurement.

The DICCE contractor will be required to determine export control applicability and ensure compliance with all applicable export control requirements.

**18. Question:** Does NNSA have a preferred vendor for foreign and/or domestic detection equipment?

**Answer:** Only equipment that has been determined to meet SLD performance requirements may be considered. NNSA has already purchased a large number of radiation portal monitors, which will be provided as GFP to the DICCE contractor. Task/delivery orders will identify radiation detection equipment requirements.

### **Topic: Funding**

**19. Question:** When will the government be able to define the amount of budget available to the DICCE contractor to perform the requirements of the program? We understand funding levels are hard to nail down, but given the number of organizations (labs, etc.) involved in the program, rough idea of how much budget is available to the DICCE contractor would be useful for obtaining the proper corporate commitment.

**Answer:** The current estimated budget available for the DICCE contractor is \$500M over five years. Additionally, a two-year option valued at approximately \$200M - \$300M is under consideration. In addition to budget constraints, all DICCE work will be contingent upon the program's ability to obtain agreements with host governments.

**20. Question:** What is the anticipated budget for the DICCE contract by year? Core program and Megaports?

**Answer:** Experience has shown that actual annual appropriations have varied from the budget request. The agreement process has also been somewhat unpredictable; therefore, the SLD program cannot provide reliable annual budget expectations for Core and Megaports at this time.

**21. Question:** I have a question on slide 25 ("Office of Second Line of Defense Program Overview" Industry Day briefing); this is the Megaport's FY07 Budget Forecast. If I add that up I get 54 sites and under \$400M projection and if I look at the Sources Sought Announcement I see 40 megaports and \$400M to \$500M. Please comment on the funding there and the number of sites?

**Answer:** The sources sought funding range of \$400-500M includes both Core and Megaport sites. The current maximum site estimate is 50 ports under the Megaports Program and 200 sites under the Core Program. See also the answers to Questions 19 and 20 above.

**22. Question:** What percentage of DICCE funds will go to the Labs? Do Labs compete for the work?

**Answer:** None of the funds allocated to the DICCE procurement will be directed to the laboratories, nor do the national laboratories compete with the DICCE or other contractors for funding. SLD program funds are separately allocated to labs and contractors as necessary.

**23. Question:** For this upcoming effort, what percentage of the funding pie do you think would be going to the labs? And have you considered having the labs compete for this work because industry could do some of the work, especially in the area of training?

**Answer:** See answer to Question 22 above.

**24. Question:** What percentage of the available funding do you anticipate going to the Laboratories?

**Answer:** See answer to Question 22 above.

**25. Question:** Please clarify the budget ("Office of Second Line of Defense Program Overview" Industry Day briefing). When you provide the budget profile are you referring to that as the budget that would likely be available to the DICCE contractor or is that a budget that includes funding that will go to other entities?

**Answer:** The budget numbers provided are the total budget. That includes funding that will go to support other program requirements, in addition to the DICCE contractor. See also answer to Question 19 above.

## **Topic: Miscellaneous Questions**

**26. Question:** What is impact of ITAR regulations, now and future, on DICCE, particularly with respect to advanced detector technology?

**Answer:** There are no known ITAR issues at this time. See also answer to Question 17 above.

**27. Question:** Tracy Mustin (Director, Office of Second Line of Defense) stated that DNDO's role was to define the architecture for deployment of detection equipment. DNDO is prototyping various detection technologies (such as high-energy x-ray systems). Will DICCE be responsible for deployment of new technology once it has been proven effective by DNDO?

**Answer:** DICCE may be required to deploy new technology, as the program deems appropriate. Any such requirement will be clearly defined by delivery/task order.

**28. Question:** In that the DICCE contractor is the "face of US Government" for long periods, without USG authority, how can NNSA ensure appropriate USG involvement at many simultaneous sites working under the program, so that issues can be decided by appropriate authority?

**Answer:** A DOE/NNSA Federal Country Manager will be assigned to all projects throughout their planning and implementation. Open and frequent communications between the DICCE contractor and the Federal Country Manager will be the path to resolving issues that cannot be resolved by the DICCE contractor. All country teams will include a federal country manager who reports to the Core and Megaports program leads, who in turn report to the Program Director and Deputy Director. All of these people will work together to ensure that appropriate guidance is provided.

**29. Question:** Much of the SLD Core Program work centers on Russia and the Former Soviet Union States. Slides 19 and 20 ("Office of Second Line of Defense Program Overview" Industry Day briefing) indicate that the Russian sites are not included in the DICCE scope. Will the work in other Former Soviet Union States be part of the DICCE Contractor scope?

**Answer:** Yes. Only Russia is excluded.

**30. Question:** Will RPM systems be required to meet ANSI and/or IAEA standards?

**Answer:** No. RPM systems are performance tested and must meet detection capability requirements set by the SLD program. Radiation detection equipment has already been purchased and will be provided as GFP. If additional equipment is required, DOE/NNSA will provide appropriate direction to the DICCE contractor on the specific requirements.

**31. Question:** Will RPM data formats, security, transfer protocols, etc. be subject to ANSI standards? If so, will DOE assist with the requisite export compliance measures to ensure a legal transfer of the data systems and software to accomplish this?

**Answer:** No. The SLD program will determine data formats and requirements. The DICCE contractor will be responsible for compliance with all export control requirements.

**32. Question:** How much US technology (e.g. computer hardware) is typically exported vice purchased from foreign vendors? Would DOE prefer that the Systems Integrator (SI) use foreign sources (labor and equipment) as much as possible?

**Answer:** At present, most computer hardware is purchased in the US due to VAT issues and the difficulty of locating foreign vendors. The program supports the purchase of local equipment in order to facilitate local maintenance and repair. Therefore, SLD prefers that local purchases of equipment be made whenever practical and available.

**33. Question:** Can you clarify the roles and work scope of the Laboratories? Given these multiple roles, clarify whom the DICCE contractor will take direction from for design, construction, integration, and communication.

**Answer:** The updated SLD Implementation Strategy has been posted on the DICCE acquisition website. This document addresses the roles and responsibilities of all SLD program participants and how they relate to one another. Specific direction will be provided to the DICCE contractor through task/delivery orders. The SLD Federal Country Manager, in some cases supported by a national laboratory-certified project manager, will provide day-to-day project oversight.

**34. Question:** Does NNSA want a Lead Systems Integrator (LSI) for the whole program, or do they intend to break out specific tasks for different awardees? If the latter, will they still want an integrator?

**Answer:** The DICCE contractor is not expected to provide a "turnkey" solution for the SLD program. The DICCE contractor is expected to provide the leadership and integration necessary for the delivery and installation of the equipment. Although the roles and responsibilities of each team member are subject to the requirements of each location, in general, the installation effort typically includes activities such as: coordination with SLD and SLD team members, subcontracting, permitting, scheduling, design, construction oversight, change control, site access, coordination with local embassy officials and ministries, VAT reimbursement/exemption support, training support, acceptance testing support, translation and interpretation, transportation, etc. Pre- and post-installation activities are generally the responsibility of the SLD Program office and DICCE can expect SLD to work with them throughout the installation process.

**35. Question:** Is this program limited to passive detection?

**Answer:** Yes.

**36. Question:** Will ANSI standards and NIST specifications apply to this program?

**Answer:** In terms of the portal monitors, the program will be providing appropriate commercially available equipment, or task/delivery orders will specify the make, model and manufacturer of SLD-approved equipment. See also answers to Questions 30 and 31.

**37. Question:** Will detection equipment be provided as GFP?

**Answer:** Yes.

**38. Question:** Is gamma spectroscopy part of this program?

**Answer:** Not at this time, except through the deployment of handhelds. Advanced spectroscopic portals may be added in the future. The government will provide equipment as GFP or direct the procurement of specific SLD-approved equipment through task/delivery orders.

**39. Question:** Will facility design and installation work be separately contracted? If so, will NNSA contract local labor separately?

**Answer:** All installation design and construction work is included in this contract. The DICCE contractor will subcontract for local labor.

**40. Question:** It is recognized that the ability of the DICCE contractor to successfully integrate and maintain control of the project scope, cost and schedule depends on the early and timely identification of the equipment and equipment requirements. Who will be responsible for the identification of the equipment requirements and subsequent equipment procurements to meet the requirements? Will the equipment be US supplied?

**Answer:** SLD will identify the site requirements, including types, quantities, and locations of equipment to be installed. Radiation detection equipment will be provided as GFP. In some cases, foreign equipment will be required and therefore directed procurements may become necessary. Communications hardware and software will generally be provided by the DICCE contractor; however, the SLD Program does have existing software that may be made available as appropriate.

**41. Question:** Would you please confirm that there is no construction or installation work in the US associated with this contract?

**Answer:** We do not do work in the United States. The domestic deployment of radiation detection systems is under the purview of Department of Homeland Security and Customs and Border Protection. We do consult with them. That is not to say that there could not be some requirements for limited domestic work in support of testing and training activities.



**42. Question:** Are you looking at new technology, new development or the application of current technology and radiation detection?

**Answer:** The equipment that we are deploying now is commercially available radiation portable monitors, plastics, helium 3 tubes, and commercially available handhelds. Much of the R&D mission in this area is with other parts of DOE or the Department of Homeland Security. We are working closely with them to define our needs. We are watching the next generation evolution and there is a possibility that as those products become available some of that equipment will be incorporated into our program. We are also looking at unique configurations of existing equipment. The DICCE contractor is not expected to provide R&D efforts or otherwise support new technology development.

**43. Question:** How many radiation detection systems have been purchased and are waiting for deployment?

**Answer:** We have approximately 600 right now.

**44. Question:** Can you describe the process and the timeline once a sovereign nation signs the MOU? Typically how long does it take to mobilize? What does the process look like post-agreement in terms of bringing that vendor in and getting them mobilized and in the country?

**Answer:** It varies country-to-country, but as soon as we get the agreement signed, we try to launch right away. For the Core Program, if SLD is going into a country where we expect to deploy to 25 sites, typically the conference calls and the finalizing of the task order start right away. However, work on the ground may be carried out incrementally. A small DICCE team may deploy early to conduct planning.

For the Megaports Program, once the agreement is signed with the country, it takes about 30 days to mobilize a team (Federal, Laboratory, and contractor) to begin preparation. Then the team is usually in the country on the engineering survey about 60 days after the agreement is signed. We target nine to 12 months to complete installation and turnover to the host government for a typical deployment of 20 monitors at a port.

On the Core Program side it depends to a large extent on country-specific issues. SLD has some cases where we would sign an agreement and we would have monitors in the ground and acceptance testing within six months. In other cases, there are host country interagency coordination issues and other problems, and it may take eight months to a year to actually break ground.

**45. Question:** How much of the program budget that now goes to other entities are you prepared to actually move into the DICCE Program in the future?

**Answer:** In general, the scope that we envision now under the DICCE contract is the scope of work that is already under contract and is currently provided by commercial vendors. This is a follow-on contract effort.

**46. Question:** I have a question regarding security clearances that would be required for personnel working on this program. Are there going to be any classification requirements?

**Answer:** No.

**47. Question:** What type of security clearances are required, if any, to perform the work? If DOE "Q" clearances are required, will reciprocity be offered for DoD TS clearances?

**Answer:** See answer to Question 46 above.

**48. Question:** What is the status of equipment the DICCE contractor will be given (GFP) or expected to purchase with respect to export controls? This information is critical in scoping out support required to effectively support the program.

**Answer:** See answer to Question 17 above.

**49. Question:** What is the status of equipment the DICCE contractor will be given (GFE) or expected to purchase with respect to export controls?

**Answer:** See answer to Question 17 above.

**50. Question:** A lot has been said about cultural sensitivity in the host nations, and implicit in that is somewhat of an understanding of a heavy use of US labor, US people and adapting to cultural sensitivity. Are you in fact receptive to extensive use of in-country assets, in-country labor, and in-country organizations? And do you have any concept of percentage of work that might go to in-country subcontractors?

**Answer:** Our implementation experience to date has relied largely on the US company-based contract that we have right now. That contractor has been subcontracting for host country labor. We do not expect that standard to change. We would rely on our DICCE contractor's expertise and judgment to determine what in-country labor capabilities will provide the proper quality of work. Using labor from the host country is usually cheaper and quicker and may result in improved cooperation from the host country.

In most major seaports, the port often dictates which contractors can work within the port. We work in partnership with the host government to identify subcontractors that can be used in a particular port. In some cases there may be a strong indication from a terminal operator as to what assets are available as potential subcontractors. In other cases, we may get input from embassies and the host government.

**51. Question:** Will the government direct any vendor or subcontracting relationships for the DICCE contractor?

**Answer:** Yes. The government will direct use of specific radiation detection equipment when appropriate and may direct use of specific in-country subcontractors in accordance with agreements reached with host government or other local requirements.

**52. Question:** At the average port or at the average border crossing you have a certain conceptual idea or preliminary engineering level idea of what you want the package to perform. If you are trying to engineer that and get it put in the ground with local resources, do you expect those packages to be reviewed in reviews and then designed and then released for construction in an orderly way? Is there a process or a pipeline that would involve further review or do you just release to the DICCE contractor your requirements and then have some kind of a review along the way for milestones? Is there a package that is generic and adjusted to the specific application and always in English?

**Answer:** An updated Implementation Strategy has been posted to the DICCE website. This document addresses the process involved.

**53. Question:** You mentioned that eventually you would expect the host country stakeholders to take over sustainment of the systems we deliver. My question is during this transition period, perhaps up to three years, would you expect the DICCE Contractor to help with spare parts, equipment maintenance, and training or is that done some place else?

**Answer:** We are looking into different options. The DICCE contractor may be required to assist with some maintenance activities for a period of time, but in general, we expect these services to be provided through local entities either through subcontract to the DICCE contractor or by other means.

**54. Question:** As the technology for radiation monitoring evolves, do you see a potential for the DICCE contract to go back to the original 13 sites and back fit advanced technology as advanced spectrographic portal (ASP), or the follow on to that, becomes available on the market place? Or would you use another contract vehicle for back-fit going back in the countries?

**Answer:** We are watching the roll out of ASPs and looking at ways in which ASP deployments can help us. For Megaports we are looking at options, including some limited deployment of ASP to support primarily secondary inspections. It is possible that the DICCE contractor may be tasked to install some of this equipment in the future.

**55. Question:** Would you give a little broader perspective on which national labs are involved and what their goals are?

**Answer:** Primarily there are four national laboratories involved in our work. Pacific Northwest National Laboratory provides support for project management and training. Sandia National Laboratory provides us with expertise in identification of the design requirements, the communications systems requirements and the system-level acceptance testing at the end of the process. Oak Ridge National Laboratory conducts the radiation portal monitor data analysis piece. Los Alamos National Laboratory provides us with expertise on radiation detection technology. The specific roles for any laboratory in any specific country will vary based on complexity and need. See also the updated Implementation Strategy that has been posted on the DICCE website for more details.

**56. Question:** Will the National Laboratories continue to have roles performing training (such as PNNL currently has)?

**Answer:** Yes. However, the DICCE contractor is expected to play a part in training, particularly with regard to operation of the contractor-provided equipment, as well as provide support to in-country training activities.

**57. Question:** Would we expect about a 30% level of design from a Laboratory at the notice to proceed at a particular site and then mature that design to 75% and then 100%? Or would we be given a straight 100% design?

**Answer:** There is no Laboratory input on design other than through the general design requirements on portal placement and communications system requirements documents. The DICCE contractor will be expected to develop a design based upon the requirements identified.

**58. Question:** In regards to the deployment overseas, how involved are the labs in the design review process and how much control do they have over changes once we get something that's workable and safe? How involved are they in the construction process?

**Answer:** The labs are involved in our process and review, but most changes are initiated by the host government once we get into a port or site. We try to control that as much as possible, but we are committed to working with them to address their concerns. The laboratories provide technical advice to the Federal Country Manager. They are not significantly involved in the construction process, but do participate in the acceptance testing.

**59. Question:** Since the end state of this whole program is to have the host country adopt or take over the system, has the administration considered data integrity or integrity of the hardware and software as the host country provides proof or some mechanism that it, in fact, is maintaining the system through time so that the data that's compiled in the center actually has integrity coming from instruments that are being maintained? More specifically, is there a tamper proof requirement embedded in the system design so that even the host country can expect some reliability and training on how to determine that reliability with tampered proof capabilities? I'm thinking of sabotage and terrorism and so forth.

**Answer:** After installation and transition we rely largely on the continuing relationship that we have with the host government, which involves periodic visits to look at the equipment to check on the settings and analysis of portal data from the system provided to us by the host country as part of this relationship. In the agreement there is a requirement to provide certain types of data on incidents of illicit trafficking. Data is not currently transmitted to the US electronically, although this could be incorporated into the overall systems in the future.

We have tamper alarms on the hardware. Expert analysis of the data from the monitors would reveal whether or not tampering has occurred.

**60. Question:** Is the equipment that you're looking to install required to be made in the United States or are you using a mix of internationally made equipment, etc?

**Answer:** Depending upon specific arrangements with the host government, both US and foreign manufacturers may be used. For example, if we are working at a European port we may buy a European computer to ensure long term sustainability.

**61. Question:** Do you look at handhelds where some alarms would go to the handhelds or even be generated by handhelds with sensors on it?

**Answer:** We utilize handhelds to conduct secondary inspections. There is the capability to download data from the handhelds to the communications system.

As required by DOE's agreements with host government agencies, the US is to get notification of real alarms and seizures. This notification will typically come through the embassy or official mechanisms established in the country. There is currently no electronic transmission of data outside the country

**62. Question:** Can you identify who's currently performing the design-build and communications work, and are they precluded from this particular solicitation?

**Answer:** The incumbent contractor for design-build services is Ahtna Government Services Corporation, an 8(a) Alaska Native Corporation under cost-plus-fixed fee contract DE-AC52-04NA25282. It is anticipated that the contract will expire at the end of Fiscal Year 2007. In addition, SI International currently provides communications system design and deployment through an interagency agreement with the Air Force, number DE-AI52-04NA25954. Neither contractor is precluded from competing for this procurement.

**63. Question:** Will assessments that have been performed on land border crossings, airports, and seaports be provided as Government Furnished Information?

**Answer:** Generally, no. DICCE will be provided the design requirements for each site, or set of sites, as part of specific task orders.

**64. Question:** Per the Industry Day it sounded as if any SLD work currently underway at the time of the award of the DICCE contract would not be work required of the DICCE contractor. Is this a true statement? Would this also apply to phases of work? For example, if Phase 1 of a Megaports project was completed just after award of the DICCE contract, would Phase 2 go to the incumbents or the DICCE contractor?

**Answer:** The incumbent contractors will be expected to complete the work assigned under their task orders. This will include completion of all phases at a port and all sites within a country.

**65. Question:** Can you provide a rough percentage of the DICCE work in terms of pure construction and integration-type tasks?

**Answer:** This varies greatly between task orders. In some cases the DICCE contractor will provide no direct construction and integration work but will provide engineering and consulting services. In other cases, DICCE will provide in-country construction and integration work.

**66. Question:** Has any thought been given to involve the DICCE contractor prior to the signature of a country MOU in order to aid the government in early assessments and/or potential issues?

**Answer:** This has been considered. It is possible that the DICCE contractor may be required to participate in meetings with host government officials for the purpose of providing more detailed information on the installation activities and communications systems capabilities, although these instances will be very limited. Because the agreement process is unpredictable and the program has experienced numerous extended delays, SLD generally will not engage the DICCE contractor for assessment or research activities prior to agreement.

#### **Topic: Indemnification**

**67. Question:** What liability/indemnification protections will be afforded to DICCE contractors?

**Answer:** In conducting activities under this contract, the DICCE contractor will be afforded the protections of the Price Anderson Act for any legal liability arising out of or resulting from a nuclear incident in connection with a DOE activity. A nuclear incident is defined in Section 11(q) of the Atomic Energy Act of 1954, as amended, as any occurrence, including a nuclear occurrence, within the United States, causing injury, sickness, or other harm that arises out of or results from the radioactive, toxic, explosive, or other properties of source, special nuclear, or byproduct material.

In addition, the DICCE contractor may be eligible for protections under the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002 (Safety Act) for third-party tort liability arising out of the deployment of “qualified anti-terrorism technologies” in defense against an act of terrorism. Qualified sellers of anti-terrorism technologies would be afforded liability protections for unlawful acts causing harm within the US arising out of the deployment of such technologies. Section 25.3(a) of the interim rule, 6 C.F.R. Part 25, defines qualified anti-terrorism technologies very broadly to include “any qualifying product, equipment, service (including support services), device, or technology (including information technology) that the Secretary of Homeland Security determines to merit designation under the criteria laid out in the SAFETY Act. The Department of Energy does not have authority to designate or certify technologies. It is the contractor’s responsibility to submit an application to the Department of Homeland Security.

The grant of extraordinary contractual relief provided by Pub. L. No. 85-8-04 is subject to approval by the Secretary of Energy and is limited to protecting contractors for activities that involve unusually hazardous or nuclear risks. Performance under the DICCE contract does not involve the handling of, contact with, or exposure to any ultra-hazardous or nuclear materials. The DICCE contract does not involve the type of activity for which the Department normally provides indemnification under Pub. L. 85-804. Therefore, the international agreements covering these activities do not include provisions on liability protections and Pub. L. 85-804 indemnification was not provided to the current contractors. The Department has no plan to provide such indemnification for any contractor activities under the proposed DICCE contract.

Furthermore, Section 73 of Executive Order 13286 (February 28, 2003), which amended Executive Order 10789 (November 14, 1958), provides that Federal agencies cannot provide Pub. L. 85-804 indemnification “with respect to any matter that has been, or could be, designated by the Secretary of Homeland Security as a qualified anti-terrorism technology” unless the Secretary of Homeland Security has advised whether SAFETY Act coverage would be appropriate and the Director of the Office of Management and Budget has approved the exercise of indemnification authority.

**68. Question:** Will contractor be indemnified from liabilities associated with a nuclear or radiological device making it through a radiation portal due to improper installation, and causing releases, damages or deaths?

**Answer:** See answer to Question 67 above.

**69. Question:** What is the liability of the DICCE contractor if something (e.g., SNM) makes it through a portal? Obviously, DICCE contractors will not be responsible for the portal itself, if GFE, but will Government verification of proper installation relieve the DICCE contractor of liability?

**Answer:** See answer to Question 67 above.

**70. Question:** What indemnification provisions will apply (for example, PL 85-804 was written for this type of procurement)?

**Answer:** See answer to Question 67 above.

**71. Question:** Will the DICCE contractor have adequate liability coverage through negotiated Government to Government agreement prior to performing or contracting for any work in foreign countries?

**Answer:** See answer to Question 67 above.

**72. Question:** What liability protection or indemnification from liability will be provided by the Government, such as PL 85-804 and/or, Safety Act Coverage? Particularly Third Party Claims from Host countries.

**Answer:** See answer to Question 67 above.

**73. Question:** Will the Government consider pre-certifying this program for SAFETY Act coverage?

**Answer:** See answer to Question 67 above.

**74. Question:** Please discuss the indemnification structure that will be connected to the contract?

**Answer:** See answer to Question 67 above.

**75. Question:** Is any of this equipment that's going to be installed will fall under the Safety Act?

**Answer:** See answer to Question 67 above.

**76. Question:** Are you intending to rely on bilateral agreements with the host country to provide indemnification for contractors, or is there another methodology? Will there be other copies of existing bilateral agreements that will be made available to bidders or is that something that I could FOIA?

**Answer:** Prospective offerors will not need access to copies of the bilateral agreements to prepare DICCE proposals. Copies of existing bilateral agreements with host countries cannot be released unless prior written approval is received from each individual host country that is a party to the agreement. Any person can request a copy of the bilateral agreements pursuant to the Freedom of Information Act, but the Department cannot release these agreements until written approval for public release is obtained from the host country.

**77. Question:** Will the government-to-government agreements that have been signed between the United States and various host countries for the Megaports program be provided?

**Answer:** See answer to Question 76.



**78. Question:** Is it anticipated that the work required by Sections 4.2.1.4 and 4.2.1.9 of the Draft DICCE SOW will involve hazardous waste permits and hazardous waste disposal (as may be defined by the laws and regulations of the host country)? Will any indemnification be offered to the DICCE contractors?

**Answer:** The DICCE contractor will not be responsible for obtaining hazardous waste permits or disposing of hazardous waste. In all cases, the host country subcontractor will be responsible for obtaining all permits and all work related to disposing of waste. This aspect of work should be spelled out in the DICCE contractor's subcontract with the host country subcontractor company.

**Topic: Statement of Work**

**79. Question:** Please describe the SOW for “Project Management” that is the responsibility of National Laboratories; and, is this for the Megaports Program, Core, or both? What PM SOW should the DICCE contractor assume?

**Answer:** All SOW requirements are those of the DICCE contractor. The national labs are tasked and funded separately. The project management tasks necessary for the accomplishment of the DICCE SOW will be the responsibility of the DICCE contractor.

**80. Question:** What is the Project Management role of the National Laboratories and what might be the Project Management role of the DICCE Prime Contractor(s)? Is it universal? Does it vary from Core to Megaports? Or, have you decided yet?

**Answer:** See answers to Questions 79 and 33 above.

**81. Question:** The Draft DICCE SOW Section 4.1 includes CAS and LAS buildings in the design scope, and the System Architecture description (Section 4.3.1) includes assistance in the development of communications options for LAS, CAS, Mother CAS, Regional Center and National Center communications. The Program Overview portion of the presentation addresses these facilities. Please provide more information regarding the anticipated level of effort to support facility design and construction for the alarm monitoring stations and centers.

**Answer:** In most cases, existing facilities will be used. In certain limited cases, small facilities (such as pre-fabricated booths and other simple structures) may be required to house alarm monitoring stations. Such requirements will be specified in individual delivery/task orders.

**82. Question:** Is there a sustainment requirement (parts, O&M, help desk, ongoing training, upgrades, etc)?

**Answer:** See answer to Question 53 above.

**83. Question:** Regarding the standard design package that you have developed and is in the draft statement of work. Do you have plans to allow industry to take a look at those documents prior to the issuance of the solicitation, or once it's issued, so we can provide you a better response in our proposals? Do you know the timing of when that information will be available?

**Answer:** The standard designs will be provided to the successful offeror(s) upon contract award.